

F. AVAILABLE INCOME

WAC 388-513-1325 Determining available income for a single client for long-term care (LTC) services. This section describes income the department considers available when determining a single client's eligibility for LTC services.

- (1) Refer to WAC 388-513-1330 for rules related to available income for legally married couples.
- (2) The department must apply the following rules when determining income eligibility for LTC services:
 - (a) WAC 388-450-0005 (3) and (4) Income--Ownership and availability;
 - (b) WAC 388-450-0085 Self-employment income--Allowable expenses;
 - (c) WAC 388-450-0210 (4) (b), (e), and (h) Countable income for medical programs;
 - (d) WAC 388-506-0620 SSI-related medical clients; and
 - (e) WAC 388-511-1130 SSI-related income availability.
 - (f) WAC 388-513-1315 (15 and (16) Eligibility for long-term care (institutional, waived, and hospice) services.

WAC 388-513-1330 Determining available income for legally married couples for long-term care (LTC) services.

This section describes income the department considers available when determining a legally married client's eligibility for LTC services.

- (1) The department must apply the following rules when determining income eligibility for LTC services:
 - (a) WAC 388-450-0005 (3) and (4) Income--Ownership and availability;
 - (b) WAC 388-450-0085 Self-employment income--Allowable expenses;

- (c) WAC 388-450-0210 (4) (b), (e), and (h) Countable income for medical programs;
 - (d) WAC 388-506-0620 SSI-related medical clients; and
 - (e) WAC 388-511-1130 SSI-related income availability.
 - (f) WAC 388-513-1315 (15 and (16) Eligibility for long-term care (institutional, waived, and hospice) services.
- (2) For an institutionalized client married to a community spouse who is not applying or approved for LTC services, the department considers the following income available, unless subsection (4) applies:
- (a) Income received in the client's name;
 - (b) Income paid to a representative on the client's behalf;
 - (c) One-half of the income received in the names of both spouses; and
 - (d) Income from a trust as provided by the trust.
- (3) The department considers the following income unavailable to an institutionalized client:
- (a) Separate or community income received in the name of the community spouse; and
 - (b) Income established as unavailable through a fair hearing.
- (4) For the determination of eligibility only, if available income described in subsections (2) (a) through (d) minus income exclusions described in WAC 388-513-1340 exceeds the special income level (SIL), then:
- (a) The department follows community property law when determining ownership of income;
 - (b) Presumes all income received after marriage by either or both spouses to be community income; and
 - (c) Considers one-half of all community income available to the institutionalized client.

- (5) If both spouses are either applying or approved for LTC services, then:
 - (a) The department allocates one-half of all community income described in subsection (4) to each spouse; and
 - (b) Adds the separate income of each spouse respectively to determine available income for each of them.
- (6) The department considers income generated by a transferred resource to be the separate income of the person or entity to which it is transferred.
- (7) The department considers income not generated by a transferred resource available to the client, even when the client transfers or assigns the rights to the income to:
 - (a) The spouse; or
 - (b) A trust for the benefit of the spouse.
- (8) The department evaluates the transfer of a resource described in subsection (6) according to WAC 388-513-1365 and WAC 388-513-1366 to determine whether a penalty period of ineligibility is required

CLARIFYING INFORMATION

Available income

When one member of a married couple applies for LTC services, the department applies the “name on the check” rule (see below) to determine the client’s available income. If the client is not income eligible for services under the CN program, the department applies the “community income” rule (see below). If the application of both rules results in income above the CN standard, the department determines the client’s eligibility for institutional or hospice services under the MN program.

When both spouses are applying at the same time, or when one has already been determined eligible for LTC services, the department establishes eligibility for them as it does for single client as described in WAC 388-513-1315 (14) with the following exceptions:

- If the two are living together in a NF or alternate care facility, their eligibility can be determined together as a couple, if doing so would be to their advantage.
- If one spouse is applying for CN LTC services, the department does not use the community income rule to establish an income amount for each client as a single person, when doing so would be to their disadvantage. The department uses the “name on the check” rule for each spouse, when doing so allows an otherwise eligible client to be approved for CN services.

Example 1: A spouse receiving COPES in the home retains income of up to 100% of the FPL before available income is assigned to the other spouse. The higher expenses of living in the community are included in the amount defined by the waived program as a maintenance needs amount. The department does not reduce that amount when assigning community income between the spouses to determine eligibility or participation in the cost of care.

Example 2: A spouse who resides in a medical facility is not eligible for COPES when the department applies the “community income” rule to establish an income amount for each spouse. Due to income of the other spouse who is approved for LTC services in a medical facility, one-half of the community income amount exceeds the SIL. In such a case, the department applies the “name on the check” rule, when doing so allows the spouse who is otherwise eligible for COPES to return to a community setting, if the client wishes to do so.

Income methodologies

“Name on the check” rule:

- This rule presumes that income received in the spouse’s name is his/her separate income
- Income paid to one spouse on his/her behalf is presumed to be that spouse’s income
- One-half of income paid to both spouses is assigned to each spouse
- With no documentation of ownership, one-half of all income is assigned to each spouse
- Income received in the name of either or both spouses and another person(s) is assigned according to their proportionate share

“Community income” rule:

- This rule presumes that income received in the name of either or both spouses is the income of both, unless it meets the definition of separate income

- Consider income, including but not limited to wages or pensions and retirement funds the spouse earned the right to receive during the marriage as community income

Separate income:

- SSI payments or income legally established as separate income
- Income from a source that required the spouse to earn the right to receive it, including but not limited to, retirement funds the spouse earned the right to receive before the marriage
- Income from separate property acquired before the marriage or during the marriage, if purchased with separate income and kept separately
- Income that has been commingled is not separate income, unless it can be traced to its separate source

WORKER RESPONSIBILITIES

1. See **AVAILABLE INCOME** to establish what income must be counted in the eligibility determination.
2. Use the clarifying information above to determine separate and community income.
3. For an institutionalized client with a community spouse, first determine eligibility for CN LTC services by using the “name on the check” rule. If the client is not eligible, then use the “community income” rule.
4. When both spouses are institutionalized, assign one-half of the community income to each spouse, unless doing so results in ineligibility for one spouse who would otherwise meet all CN program requirements as a single client.
5. Follow necessary supplemental accommodation (NSA) procedures described in chapter 388-200 WAC when appropriate.

ACES PROCEDURES

1. Refer to Chapter K 20.16.4 in the ACES User Manual. While following those procedures, the information below is important to remember.
2. Identify and enter the correct source code on the UNER screen for different income types. Use the Social Security source code that corresponds to the

client's claim number suffix or BIC. F1 help shows the correct code to use for each BIC. If the wrong source code is used, then the interface with Bendex causes ACES to count the income twice.

3. Enter the income of the institutionalized spouse (IS) and the community spouse (CS) on the LTCD screen. Since Bendex does not interface with the Social Security amounts entered on the LTCD screen for the CS, enter COLAs and other income changes related to the CS manually. Bendex updates the income for an IS approved for services on the UNER screen. Enter income changes for the IS on the LTCD screen, in order for ACES to correctly compute one-half of the community income for participation purposes.